

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF ILLINOIS)	
)	
Petition for a Certificate of Public Convenience and)	
Necessity, pursuant to Section 8-406.1 of the Illinois Public)	
Utilities Act, and an Order pursuant to Section 8-503 of the)	
Public Utilities Act, to Construct, Operate and Maintain a)	Docket No. 12-0598
New High Voltage Electric Service Line and Related)	
Facilities in the Counties of Adams, Brown, Cass,)	
Champaign, Christian, Clark, Coles, Edgar, Fulton, Macon,)	
Montgomery, Morgan, Moultrie, Pike, Sangamon, Schuyler,)	
Scott and Shelby, Illinois.)	

**REPLY IN SUPPORT OF AMEREN TRANSMISSION COMPANY OF ILLINOIS'
MOTION TO STRIKE CERTAIN PORTIONS OF
THE REPLY BRIEF OF STEVE AND DONNA RUHOLL**

Ameren Transmission Company of Illinois (ATXI), pursuant to the Illinois Commerce Commission's (the Commission) Rules of Practice, 83 Ill. Adm. Code §§ 200.190, 200.610(a), 200.680 and 200.500, hereby replies to Steve and Donna Ruholl's (the Ruholl Family) Response to ATXI's Motion to Strike Certain Portions of the Reply Brief of Steve and Donna Ruholl. In its Motion, ATXI sought to strike the following portions of the Ruholl Family's Reply Brief:

1. Ruholl Reply Brief, page 2, beginning with "We are ..." and ending with "... Pawnee is selected."
2. Ruholl Reply Brief, page 3, beginning with "In other words, paralleling lines ..." and ending with "... if the transmission supply goes out."
3. Ruholl Reply Brief, page 4, beginning with "Our daughter..." and ending with "... medical condition."

The Ruholl Family has agreed to withdraw the portion of its Reply Brief beginning with "We are ..." and ending with "... Pawnee is selected." (*See* Ruholl Resp. to ATXI Mtn., p. 1; Ruholl Reply Br. 2.)

ATXI withdraws its Motion to Strike with respect to the portion of the Ruholl Family's Reply Brief beginning with "In other words, paralleling lines ..." and ending with "... if the transmission supply goes out." (Ruholl Reply Br. 3.)

Thus, ATXI's Motion to Strike now concerns only that portion of the Ruholl Family's Reply Brief beginning with "Our daughter..." and ending with "... medical condition." (Ruholl Reply Br. 4.) ATXI wishes to emphasize that it is not unsympathetic to the Ruholl Family's concerns. However, ATXI must reiterate that the Ruholl Family did not submit testimony in this proceeding. The "facts" asserted are set out for the first time in the Ruholl Family's Reply Brief, and supported by evidence submitted for the first time as an attachment to the Ruholl Family's Response to ATXI's Motion to Strike. As such, no party will have an opportunity to conduct discovery or cross-examination with respect to these facts, or to submit testimony to counter the Ruholl Family's assertions. Furthermore, no party will have an opportunity to respond to the Ruholl Family's contentions in briefing. Thus, consideration of the facts stated in this portion of the Ruholl Family's Reply Brief is improper because it: (i) is contrary to the case schedule established by the ALJs in this proceeding and accepted by the Ruholl Family upon their intervention; (ii) prejudices other parties to this proceeding, particularly those with an interest in the Meredosia to Pawnee route; and (iii) violates the procedural rule that restricts reply briefs to responses to arguments made in the opening briefs of other parties.

Notwithstanding the lack of opportunity to develop the factual record on these issues by discovery and cross-examination, or to present counter-arguments in brief, the record does not support the Ruholl's allegations in any event. The Ruholl Family's concern appears driven by statements in the National Institute for Environmental Health Sciences Report (NIEHS Report), which classified exposure to electric and magnetic fields (EMF) as a "possible carcinogen."

(Ruholl Reply Br., pp. 3-4). However, the record shows that the EMF levels associated with the Project would not pose a health hazard to the general public. (ATXI Ex. 17.0, p. 14.) Reviews of research about EMF published by national and international health and scientific agencies are in general agreement that exposures in the community do not cause adverse health effects. (*Id.*) Moreover, it is unlikely that the public located along ATXI's proposed routes would have prolonged exposure to EMF at levels above those that are commonly encountered in residential settings. (*Id.*, pp. 7, 13.) The same NIEHS Report the Ruholl Family reference also classifies coffee, gasoline engine exhaust and pickled vegetables as "possible carcinogens." (ATXI Ex. 17.0, p. 13.) The NIEHS Report concluded "the level and strength of evidence supporting ELF-EMF exposure as a human health hazard are insufficient to warrant aggressive regulatory actions." (ATXI Ex. 17.0, p. 10.) Additional, more recent, studies reveal a consensus among expert research panels that "the available evidence does not support the conclusion that exposure to ELF-EMF is a cause of any adverse health effects in adults or children at the levels found in the ordinary public environment." (ATXI Ex. 17.0, p. 11.)

The Commission has consistently found that consideration of evidence, without allowing an opposing party the opportunity to cross-examine or respond, contravenes due process. *See, e.g., Ill. Bell Tel. Co.*, Docket 00-0260, Order, 2001 Ill. PUC LEXIS 871, *20-21 (Sept. 12, 2001) (auditor's participation in proceeding critical satisfy due process concerns by affording parties opportunity to present and cross-examine witnesses); *Commonwealth Edison Co.*, Docket 92-0121, Order, 1995 Ill. PUC LEXIS 232, *25-26 (Apr. 12, 1995) (no consideration given to proposal that was contrary to record evidence and offered after evidentiary hearing concluded, since benefit of fundamental right to cross-examination by the other parties); *Ill. Comm. Comm'n*, Docket 94-0066, Order, 1995 Ill. PUC LEXIS 176, *266-68 (Feb. 23, 1995)

(introduction of new proposals, which were not tested in cross-examination and which no party had the opportunity to address for the record, would violate fundamental fairness and abridge other parties' due process). If consideration of evidence without an opportunity to cross-examine contravenes due process, consideration of late-filed statements and argument that directly contradicts evidence already admitted into the record, without affording parties even the opportunity to challenge such evidence in a legal brief, is especially troublesome.

Wherefore, ATXI respectfully requests that the Commission grant its Motion to Strike with respect to that portion of the Ruholl Family's Reply Brief beginning with "Our 13 year old daughter..." and ending with "... medical condition," accord the specified portion of the Ruholl Family's Reply Brief no weight, or, alternatively, provide ATXI an opportunity to submit a supplemental reply brief responding to the allegations contained in that portion of the Ruholl Family's Reply Brief.

Dated: June 20, 2013

Respectfully submitted,

Ameren Transmission Company of Illinois

/s/ Albert D. Sturtevant

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CERTIFICATE OF SERVICE

I, Albert D. Sturtevant, an attorney, certify that on June 20, 2013, I caused a copy of the foregoing *Reply in Support of Ameren Transmission Company of Illinois' Motion to Strike a Portion of the Reply Brief of Steve and Donna Ruholl* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert D. Sturtevant

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